

**ORIGINAL****E-filing**

1 LARA R. SHAPIRO (State Bar No. 227194)

2 4145 Via Marina # 324

3 Marina del Rey, CA 90292

4 Telephone: (310) 577-0870

5 Facsimile: (424) 228-5351

6 *Of Counsel to*

7 Lemberg &amp; Associates LLC

8 A Connecticut Law Firm

9 1100 Summer Street

10 Stamford, CT 06905

11 Telephone: (203) 653-2250

12 Facsimile: (203) 653-3424

13 Attorneys for Plaintiff,

14 Herbert Cockcroft

15 UNITED STATES DISTRICT COURT

16 NORTHERN DISTRICT OF CALIFORNIA

17 Herbert Cockcroft,

18 Plaintiff,

19 vs.

20 Frederick J. Hanna &amp; Associates, P.C.;

21 and DOES 1-10, inclusive,

22 Defendants.

23 Case No.:

**C10-01833****RS**

**COMPLAINT FOR DAMAGES**  
**1. VIOLATION OF FAIR DEBT**  
**COLLECTION PRACTICES ACT,**  
**15 U.S.C. § 1692 ET. SEQ;**  
**2. VIOLATION OF FAIR DEBT**  
**COLLECTION PRATICES ACT,**  
**CAL.CIV.CODE § 1788 ET. SEQ.**

**JURY TRIAL DEMANDED****FILED****APR 28 2010**

**RICHARD W. WIEKING**  
**CLERK, U.S. DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**OAKLAND**

*File*  
*Paid*  
*ISS.*

*99***By Fax****ADR**

1 For this Complaint, the Plaintiff, Herbert Cockcroft, by undersigned counsel,  
2 states as follows:

3  
4 **JURISDICTION**

5 1. This action arises out of Defendants' repeated violations of the Fair  
6 Debt Collection Practices Act, 15 U.S.C. § 1692, et seq. ("FDCPA"), and the  
7 invasions of Plaintiff's personal privacy by the Defendants and its agents in their  
8 illegal efforts to collect a consumer debt.  
9

10 2. Supplemental jurisdiction exists pursuant to 28 U.S.C. § 1367.

11 3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in  
12 that Defendants transact business here and a substantial portion of the acts giving  
13 rise to this action occurred here.  
14

15  
16 **PARTIES**

17 4. The Plaintiff, Herbert Cockcroft (hereafter "Plaintiff"), is an adult  
18 individual residing in Oakland, CA 94618, and is a "consumer" as the term is  
19 defined by 15 U.S.C. § 1692a(3).  
20

21 5. The Defendant, Frederick J. Hanna & Associates, P.C. (hereafter  
22 "Hanna"), is a company with an address of 1427 Roswell Road, Marietta, Georgia  
23 30062, operating as a collection agency, and is a "debt collector" as the term is  
24 defined by 15 U.S.C. § 1692a(6).  
25  
26  
27  
28

1 6. Does 1-10 (the "Collectors") are individual collectors employed by  
2 Hanna and whose identities are currently unknown to the Plaintiff. One or more of  
3 the Collectors may be joined as parties once their identities are disclosed through  
4 discovery.  
5

6 7. Hanna at all times acted by and through one or more of the Collectors.  
7

8 **ALLEGATIONS APPLICABLE TO ALL COUNTS**

9 **A. The Debt**

10  
11 8. The Plaintiff incurred a financial obligation (the "Debt") to Bank of  
12 America (the "Creditor").  
13

14 9. The Debt arose from services provided by the Creditor which were  
15 primarily for family, personal or household purposes and which meets the  
16 definition of a "debt" under 15 U.S.C. § 1692a(5).  
17

18 10. The Debt was purchased, assigned or transferred to Hanna for  
19 collection, or Hanna was employed by the Creditor to collect the Debt.  
20

21 11. The Defendants attempted to collect the Debt and, as such, engaged in  
22 "communications" as defined in 15 U.S.C. § 1692a(2).  
23

24 **B. Hanna Engages in Harassment and Abusive Tactics**

25 12. Hanna called the Plaintiff numerous times per week for over five (5)  
26 months.  
27  
28

1 13. Hanna was calling to collect the Debt.

2 14. The Plaintiff entered a settlement agreement with Bank of America  
3 regarding the Debt, and was making payments to Bank of America according to  
4 the agreement.  
5

6 15. Hanna spoke to the Plaintiff's wife, discussed the Debt, and asked  
7 personal questions pertaining to the Plaintiff such as what was his social security  
8 number.  
9

10 16. Hanna filed to notify the Plaintiff of his rights under state and federal  
11 law by written correspondence within five (5) days after initial contact, including  
12 the right to dispute the Debt.  
13

14  
15 **C. Plaintiff Suffered Actual Damages**

16  
17 17. The Plaintiff has suffered and continues to suffer actual damages as a  
18 result of the Defendants' unlawful conduct.

19 18. As a direct consequence of the Defendants' acts, practices and  
20 conduct, the Plaintiff suffered and continues to suffer from humiliation, anger,  
21 anxiety, emotional distress, fear, frustration and embarrassment.  
22

23 19. The Defendants' conduct was so outrageous in character, and so  
24 extreme in degree, as to go beyond all possible bounds of decency, and to be  
25 regarded as atrocious, and utterly intolerable in a civilized community.  
26  
27  
28

**COUNT I**  
**VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT**  
**15 U.S.C. § 1692, et seq.**

20. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

21. The Defendants contacted third parties and failed to identify themselves and further failed to confirm or correct location information, in violation of 15 U.S.C. § 1692b(1).

22. The Defendants informed third parties of the nature of Plaintiff's debt and stated that the Plaintiff owed a debt, in violation of 15 U.S.C. § 1692b(2).

23. The Defendants contacted third parties in regards to the Plaintiff's debt on numerous occasions, without being asked to do so, in violation of 15 U.S.C. § 1692b(3).

24. The Defendants communicated with individuals other than the Plaintiff, the Plaintiff's attorney, or a credit bureau, in violation of 15 U.S.C. § 1692c(b).

25. The Defendants caused a phone to ring repeatedly and engaged the Plaintiff in telephone conversations, with the intent to annoy and harass, in violation of 15 U.S.C. § 1692d(5).

26. The Defendants misrepresented the character, amount and legal status of the debt, in violation of 15 U.S.C. § 1692e(2).

1 27. The Defendants employed false and deceptive means to collect a debt,  
2 in violation of 15 U.S.C. § 1692e(10).  
3

4 28. The Defendants attempted to collect an amount not authorized by the  
5 agreement creating the debt, in violation of 15 U.S.C. § 1692f(1).  
6

7 29. The Defendants failed to send the Plaintiff a validation notice stating  
8 the amount of the debt, in violation of 15 U.S.C. § 1692g(a)(1).  
9

10 30. The Defendants failed to send the Plaintiff a validation notice stating  
11 the name of the original creditor to whom the debt was owed, in violation of 15  
12 U.S.C. § 1692g(a)(2).  
13

14 31. The Defendants failed to send the Plaintiff a validation notice stating  
15 the Plaintiff's right to dispute the debt within thirty days, in violation of 15 U.S.C.  
16 § 1692g(a)(3).  
17

18 32. The Defendants failed to send the Plaintiff a validation notice  
19 informing the Plaintiff of a right to have verification and judgment mailed to the  
20 Plaintiff, in violation of 15 U.S.C. § 1692g(a)(4).  
21

22 33. The Defendants failed to send the Plaintiff a validation notice  
23 containing the name and address of the original creditor, in violation of 15 U.S.C.  
24 § 1692g(a)(5).  
25  
26  
27  
28

**COUNT II**  
**VIOLATION OF THE ROSENTHAL FAIR DEBT COLLECTION**  
**PRACTICES ACT, Cal. Civ. Code § 1788 et seq.**

37. The Rosenthal Fair Debt Collection Practices Act, California Civil Code section 1788 et seq. (“Rosenthal Act”) prohibits unfair and deceptive acts and practices in the collection of consumer debts.

39. The Defendants caused a telephone to ring repeatedly and engaged the Plaintiff in continuous conversations with an intent to annoy the Plaintiff, in violation of Cal. Civ. Code § 1788.11(d).

## COMPLAINT FOR DAMAGES



1        41. The Defendants failed to comply with the provisions of 15 U.S.C. §  
2 1692, *et seq.*, in violation of Cal. Civ. Code § 1788.13(e).

3  
4        42. The Defendants did not comply with the provisions of Title 15,  
5 Section 1692 of the United States Code, in violation of Cal. Civ. Code § 1788.17.

6        43. The Plaintiff is entitled to damages as a result of the Defendants'  
7 violations.  
8

9  
10                                    **PRAYER FOR RELIEF**

11        WHEREFORE, the Plaintiff prays that judgment be entered against the  
12 Defendants:

13  
14                    A. Actual damages pursuant to 15 U.S.C. § 1692k(a)(1) against the  
15 Defendants;

16  
17                    B. Statutory damages of \$1,000.00 pursuant to 15 U.S.C.  
18 §1692k(a)(2)(A) against the Defendants;

19                    C. Costs of litigation and reasonable attorney's fees pursuant to 15  
20 U.S.C. § 1692k(a)(3) against the Defendants;

21  
22                    D. Actual damages pursuant to Cal. Civ. Code § 1788.30(a);

23                    E. Statutory damages of \$1,000.00 per violation for knowingly and  
24 willfully committing violations pursuant to Cal. Civ. Code §  
25 1788.30(b);  
26  
27  
28



1 F. Actual damages from the Defendants for the all damages including  
2 emotional distress suffered as a result of the intentional, reckless,  
3 and/or negligent FDCPA violations and intentional, reckless, and/or  
4 negligent invasions of privacy in an amount to be determined at trial  
5 for the Plaintiff;  
6

7  
8 G. Punitive damages; and

9 H. Such other and further relief as may be just and proper.  
10

11 **TRIAL BY JURY DEMANDED ON ALL COUNTS**  
12  
13  
14

15 DATED: April 28, 2010

LARA SHAPIRO

17 By: /s/ Lara R. Shapiro  
18 Lara R. Shapiro

19 Attorney for Plaintiff  
20 Herbert Cockcroft  
21  
22  
23  
24  
25  
26  
27  
28